U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37434686

Date: MARCH 19, 2025

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, a , seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional, as well as a national interest waiver of the job offer requirement attached to this classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding that the record did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

To qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Petitioner qualifies for EB-2 classification as an advanced degree professional because he submitted evidence that he holds a doctoral degree in business administration from [redacted] University. The only issue on appeal is whether the Petitioner qualifies for a waiver of the job offer requirement in the national interest.

In response to the Director's request for evidence (RFE), the Petitioner stated his proposed endeavor is "to impact existing U.S.-based companies and institutions" by developing and implementing "marketing strategies for small, medium, large and multinational companies." The Petitioner explained he would achieve sales growth, optimize operational processes, expand market share, and strengthen customer relationships.

A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Id.* The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* The Director determined the Petitioner's proposed endeavor has substantial merit. We agree.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. The Director determined the Petitioner did not establish that his proposed endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects and would extend beyond the clients and employees of companies he would work with to impact his field more broadly.

On appeal, the Petitioner asserts the Director erred and his proposed endeavor will have national importance because it will generate substantial employment opportunities and economic benefits and will operate in economically depressed areas. The Petitioner claims his proposed endeavor aligns with digital marketing, customer relationship management, and operational efficiency, which are sectors experiencing high growth and demand for skilled workers. The Petitioner asserts that by focusing on these high-growth areas, he will "create employment opportunities for marketing professionals, IT specialists, and customer service representatives, directly contributing to job growth in critical sectors of the U.S. economy." The Petitioner further claims that he will enhance business operations, create jobs and contribute to long-term economic growth in economically distressed areas in Florida. The record does not support these claims. The Petitioner does not indicate that he would directly employ any individuals, and he provides no evidence of how many jobs his work with individual companies would directly generate.

The Petitioner further claims the national importance of his proposed endeavor is evident in his two projects, [redacted] which "are designed to enhance the competitiveness of U.S.-based businesses, particularly in economically distressed areas." In his Supplement to Professional Plan, the Petitioner indicated the scope of his [redacted] will be "medium and small enterprises across various sectors." The Petitioner does not demonstrate that his work would extend beyond these individual enterprises to impact his field more broadly at a level commensurate with national importance. In his Supplement to Professional Plan, the Petitioner states the scope of his [redacted] will be "collaboration with multiple business associations and artisan groups across diverse sectors in the United States." The Petitioner does not show how his work would extend beyond these individual associations and groups to impact his field more broadly in a manner indicative of national importance. *See id.* at 889 (explaining "we look for broader implications").

The Petitioner also asserts his proposed endeavor will have an impact beyond the clients and employees of the companies he works with, as evidenced by "expert testimonials and market research." The record does not support this claim. The Petitioner submitted support letters which attest to his skills and past accomplishments, but do not address his proposed endeavor. I-N-O-[2], C-P-, J-A-, J-V-, A-Z-, P-M-, S-C-G-, A-B-, and D-W- all praise the Petitioner's past work, but do not discuss his proposed endeavor. M-K- expresses interest in continuing to retain the Petitioner's consulting services in the U.S., but does not indicate the Petitioner's proposed endeavor would impact his field more broadly.

In response to the RFE, the Petitioner submitted additional support letters. M-R- commends the Petitioner's skills and experience, but does not discuss his specific proposed endeavor. H-M- states the Petitioner's proposed endeavor will have national impact by "enhancing operational efficiency and cost reduction, essential aspects for economic growth and prosperity of US companies." J-L- states the Petitioner's "actions will bring considerable positive impacts to the United States, directly benefiting sectors such as commercial and marketing management, operations and efficiency, business consulting and corporate management." P-V- states that companies in the United States will "not only benefit from his reputation as a visionary business strategist but also from his proven ability to turn challenges into tangible opportunities." H-M-, J-L-, and P-V- do not explain, however, how the Petitioner's proposed endeavor would extend beyond the individual companies he works with to impact his field more broadly.

The Petitioner submitted articles on why marketing is so important, the importance of marketing for the economic development of a country, the value of marketing to society, and the rise of multilevel. These articles attest to the importance of marketing, but do not address the Petitioner's proposed endeavor. Our assessment of national importance does not focus on the importance of a field in general, but instead "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.*

In his Supplement to Professional Plan, the Petitioner detailed the steps he would take to achieve sales growth, optimize operational processes, expand market share, and strengthen customer relationships. The record does not show, however, that any of these steps are unique, innovative, or otherwise have

[2] We use initials to protect the privacy of the referenced individual.

national or even global implications in his field. *See id.* (discussing improved manufacturing processes or medical advances as examples of national or even global implications within a particular field).

In sum, the relevant evidence does not establish that the Petitioner's proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within his field, or has other broader implications indicating national importance. Consequently, the Petitioner does not meet the first *Dhanasar* prong.

B. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of his specific proposed endeavor and he does not meet the first prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of his eligibility under the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not established the national importance of his proposed endeavor and does not meet the first prong of the *Dhanasar* analytical framework. Consequently, he has not demonstrated that he is eligible for or merits a waiver of the job offer requirement in the national interest as a matter of discretion.

ORDER: The appeal is dismissed.